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Tax update and Family Wealth planning Trends

Jeff Watkins, Partner, Plante Moran

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Technical concepts – Limited new “news”

- The latest and greatest from Heckerling – possible update in May (maybe ☺)
- Recent Tax legislation
- Biden Proposals – more real – what are they?
- Final Regulations issued

Non-technical concepts

- The changing landscape of our business:
  - Impact of COVID and Working Remotely
    - Short-term - Long-term
- What are successful UHNW families doing – preparing the next generation


Technical
Limited new “news”
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Recent Tax Legislation

- Setting Every Community Up for Retirement Enhancement (SECURE) Act
- Coronavirus Aid, Relief and Economic Security (CARES) Act
- Family First Coronavirus Response (FFCR) Act
- Consolidated Appropriations Act (CAA)

Business Owners

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Business Owners

461(a) excess business loss limitation (CARES)

- $500K limitation (MFJ) eliminated for 2020
- Carryback of NOLs allowed for 2018, 2019, and 2020 NOLs
- 80% of income loss limitation eliminated for 2020

Bonus depreciation (CARES)

- 100% bonus depreciation still available
- Technical correction on QIP
    - Qualified improvement property (QIP) now eligible for bonus depreciation

Business Owners

Continued complication of K-1s (Regulations)

- If no footnote details provided for QBID, taxpayers may lose their deduction
- New share holding and debt disclosures

Interest deduction limitation (CARES)

- 163(j) interest expense limitation

  Limit increased from 30 to 50% of adjusted taxable income

  Election to use 2019 ATI in lieu of 2020 ATI

Salt deduction limitation (Regulations)

- Recent guidance from the IRS allows most entity-level state taxes to escape $10,000 limitation

Business Owners

PPP loans (CARES and CAA)

- Participants in the Paycheck Protection Program may qualify for forgiveness of the loans
- CAA legislation provides for deductibility of expenses paid with PPP dollars
- PPP2 – The CAA Act extended the PPP loan program though with a more limited solution – employ less than 300 people and a decline in gross receipts

Business Owners

Employer tax credits

- Retention Credit
  - CARES – Employer could choose PPP money or Employee retention credit but not both
  - CAA – Expanded to allow employers to receive both PPP and credit benefits and made retroactive
- Employer Credits for paid Sick and Family Leave (CARES) – CAA extended these benefits through 3/31/2021
- 100% Deduction for Certain Meals

Individuals

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Individuals

- Cryptocurrency
  - The IRS added a new question on Schedule 1 on the 2019 return
    - At any time during 2019, did you receive, sell, send, exchange or otherwise acquire any financial interest in any virtual currency?
  - In 2020, the IRS is moving the question to page 1!
- SECURE Act
  - Accelerates taxes on inherited IRAs
  - Entire inherited IRA and Roth IRAs must be distributed within 10 years of owner's death
    - Effective date – for those who pass away after 12/31/19
    - Exceptions – spouse, minor child, disabled or chronically ill person or a person not more than 10 years younger than the participant.
  - IRA owners can contribute after 70 ½
  - RMDs start at age 72 (QCDs remain 70 ½)

Individuals

- IRA Distributions
  - RMDs suspended for 2020
  - Early distribution penalty waived for up to $100,000 of distribution and subject to tax over three years for COVID-19 related expenses
- Charitable Contributions –
  - $300 above the line deduction for 2020 (increased to $600 Joint under CAA for 2021)
  - 60% AGI limitation from TJCA expanded to 100% for cash gifts to non-DAF or Private Foundations (extended through 2021 under CAA)

Biden Proposals

Individuals

- Increase top rate to 39.6% from 37% for Taxpayers making more than $400,000
- Capital Gains & Qualified Dividends – Tax at top ordinary income rate of 39.6% for taxpayers with more than $1.0 million of income
- Cap itemized deductions at 28% and restore PEASE limitation
- Eliminate Carried Interest
- Lift Social Security taxable wages base-cap on taxpayers making more than $400,000

Business

- Increase rate for corporations from 21% to 28% and 15% book tax on companies with more than $100 million of income
- Reduce or eliminate bonus depreciation
- Eliminated Qualified Business Income Deduction (QBID) for taxpayers making more than $400,000
- Potential elimination of 1031 Exchanges

Gift, Estate and GST Tax Proposals

- Eliminate Stepped-Up Basis Rules
- Reduce Applicable Exclusion from $11.7 million per individual to $3.5 million (Biden-McConnell agreement irony ☺)
- Increasing the estate tax rate from 40% to 45%

Final Regulations – the IRS has been busy!

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Final Regulations Issued

- Carried Interest Regulations
- Section 163(j) Interest Regulations
- Opportunity Fund Regulations
- Final Carbon Credit Regulations
- Final Charitable Deduction reduction for state tax credits
- Deductibility of State tax Payments at Entity level
- Final 1031 Regulations

Gift & Estate Tax Planning

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Today's landscape

110,000

federal estate tax returns filed in 2001

vs.

13,000

federal estate tax returns filed in 2017

(and that's before TCJA)

Sources: You Call it Practice, I Call It a Business, Romanoff, Robert Alan

Transfer Tax System

Transfer Tax System	Gift Tax	Estate Tax	GST Tax
Tax Rates (2021)	40%	40%	40%
Marital Deduction	Unlimited	Unlimited	Unlimited/N/A
Annual Exclusion	$15,000	N/A	$15,000 (more strict)
Medical / Education	Unlimited	N/A	Unlimited
Charity	Unlimited	Unlimited	Unlimited
Applicable Exclusion*	$11,700,000	$11,700,000	$11,700,000

*** 12/31/2025 Sunset to pre-2018 laws of $5.0 million plus inflation since 2012**

Planning Ideas

- Low Interest rate environment – Big Change from a Year-Ago
  - Sales? Refinances and Clean-Up? Loans to family members?
- Retroactive Legislation – Fake News?
  - https://www.natlawreview.com/article/capital-gains-rate-historical-perspectives-retroactive-changes
- Roth Conversions matched with charitable planning (100% AGI)
- More C-corporations?
- Gifting Exclusion – “use it” before you “lose it” planning – Grantor Trusts create potential flexibility for the “impoverished” wealthy
- High Volume of gift tax returns in 2020 and now 2021?
- Does Lack of Step-up makes planning easier?
- GST allocation and gift tax reporting considerations

Other Realities

- The IRS is short-staffed and delayed in their responses and this has been compounded by COVID
- International Compliance – The IRS has issued significant penalty assessments and is winning in the courts
- Clients continue to be interested in gifts of non-public securities and the benefits of DAFs

Non-technical concepts

The changing demographics of our work force and clients

COVID and Working from Home Impact

- COVID Fatigue is real
- Working from home (or anywhere in the world) is here to stay – and it is a good thing!
- Zoom and Teams don't replace in-person contact
- Helping those that are "most" isolated requires "more" from leadership and intentionality – Harvard Article
- What do we love about our "business" – relationships and learning! That is more challenged in a Covid world – Nitti Article
- "Create some Culture"

Resources –

- "The Five New Year's Resolutions Every Tax Pro Should Make," Tony Nitti, Forbes
- "The Long Shadow of the Pandemic: 2024 and Beyond," Nicholas Christakis, 10/16/2020 – Wall Street Journal Saturday Essay
- "How to Lead When Your Team is Exhausted – and You Are, Too", Merete Wedell-Wedellsborg, Harvard Business Review

The "Great Wealth Transfer"

- $68 trillion is estimated to transfer in the next 25 years.
- Youngest boomers are 55 and oldest are 73 ($30-$40 trillion in assets).
- Millennials have different priorities:
  - Convenience, transparency and enhanced communication.
- Women likely to inherit twice.

Sources:
https://www.cnbc.com/2019/10/21/what-the-68-trillion-great-wealth-transfer-means-for-advisors.html
https://www.forbes.com/sites/forbesfinancecouncil/2018/05/15/five-predictions-on-the-future-of-wealth-management/#4ab967cf3c6d

Statistics – Thomas Rogerson – GenLeg Co.

- 70% of all wealth transfers fail in one generation.
- 97% of all multi-generational wealth transfers fail within three generations.
- Why do 97% fail?
  - 60% of failure due to a lack of communication and trust within the family.
  - 25% of failure is due to unprepared heirs.
  - 10% of failure is due to no clarity of family purpose and individual place.
  - Less than 5% of failure is due to failures in financial planning, taxes and investments.

Sources: Williams and Pressier

What are successful UHNW families doing?

And how organizations are responding…

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What are families doing?

- Creating a family meeting structure
- Utilizing a family wealth coach/facilitator
- Setting expectations to prepare the rising generation
- Providing an educational roadmap focused on technical and non-technical topics
- Sending children to boot camps and other programs focused on preparing heirs
- Using philanthropy as an easy place to start

Barriers and roadblocks

For the family: (How has COVID Impacted these realities)

- Time and geography
- Stage of life and age differences
- In-laws
- Afraid of demotivating
- Differing perspectives and opinions
- Are we repeating history? Wealth created at the end of the 19th/ beginning of 20th Century?

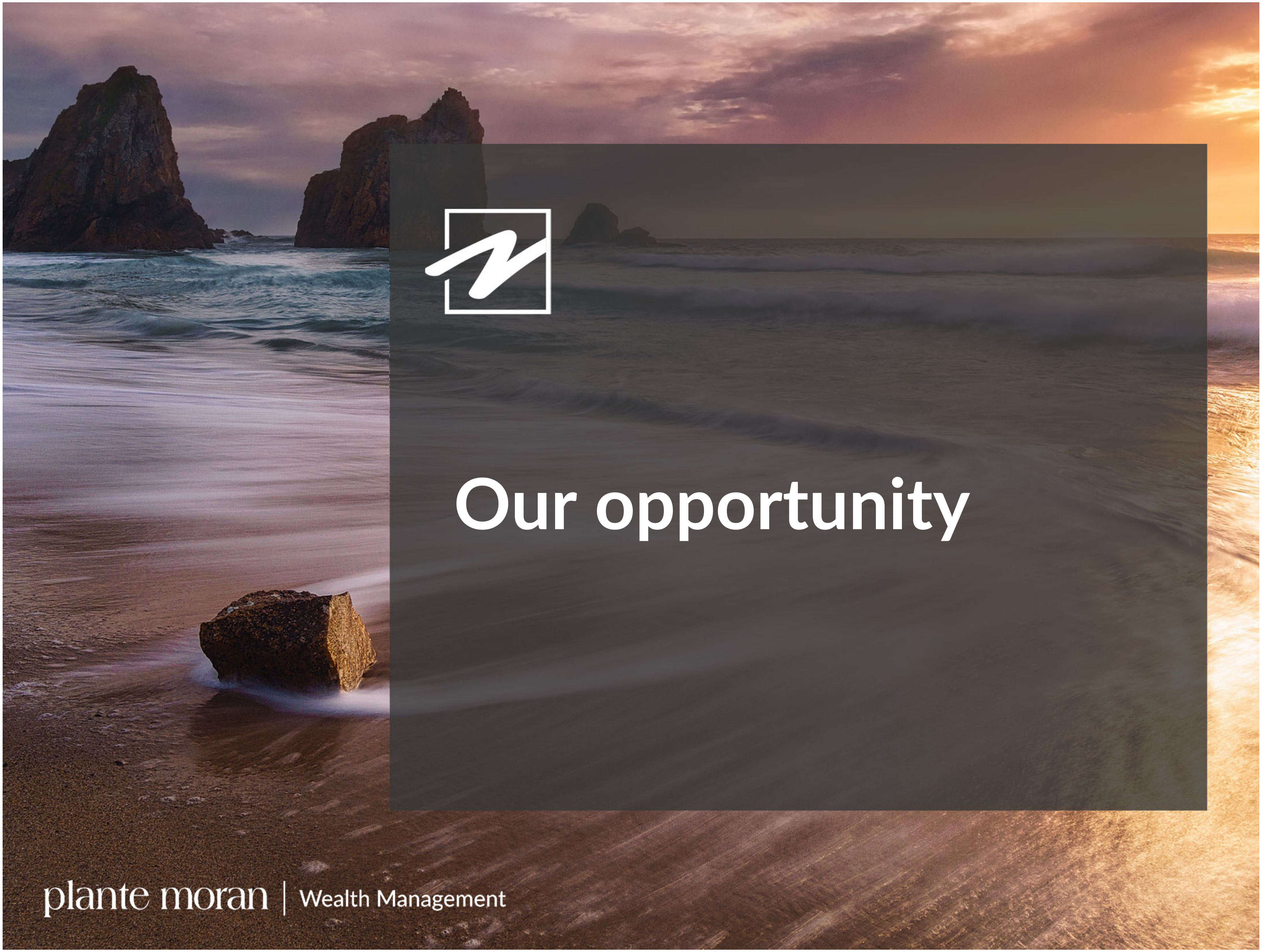
How are firms and advisors responding?

- Family dynamics, family education and family building services are becoming commonplace at many institutions.
  - Institute for Family Culture – Abbot Downing
  - Merrill Lynch's Financial Education Boot Camp
  - PwC NextGen U
  - Deloitte Family Governance and Leadership Services
  - UBS Young Successors Program
  - Hawthorn, PNC Family Wealth® Institute for Family Success
  - Vanguard Family Legacy Services

Tackling challenges

For the advisor:

- Non-technical topics are NOT always in our wheelhouse
- No immediate consequence if clients don't act
- Struggle to relate to multiple generations in a single family
- Limited capacity to add to already busy practice
- Making real connections with family in virtual environment



Our opportunity

Our opportunity

- In general, spend more time with clients **(and folks we work with – internal and external)**; emphasize value of both technical and non-technical advice being given to clients
- Shift our approach to meet the expectations of both younger clients and younger workforce
- Find talent in unique places and shifting approach to leverage that talent
- Collaborate amongst multi-disciplinary teams
- Engaging multiple generations in decision-making –
  - How does the structure we are implementing for tax planning purposes help this? LLCs and FLPs? Boards of Family members? Officers? Corporate Governance?
  - Are we able to explain complicated tax law in a manner the family can absorb and participate in the planning?
  - Don't let the tax law get in the way of good structure, corporate governance and business realities